

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**CASE NO.: 3:24-cv-17**

SHOICHI MATSUMOTO,

Plaintiff,

v.

BUTTERFIELD GOURMET, LLC,

Defendant,

**COMPLAINT FOR COPYRIGHT INFRINGEMENT**

**(INJUNCTIVE RELIEF DEMANDED)**

Plaintiff SHOICHI MATSUMOTO by and through his undersigned counsel, brings this Complaint against Defendant BUTTERFIELD GOURMET, LLC for damages and injunctive relief, and in support thereof states as follows:

**SUMMARY OF THE ACTION**

1. Plaintiff SHOICHI MATSUMOTO (“Matsumoto”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Matsumoto's original copyrighted Work of authorship.

2. Matsumoto is a private chef, TV host, food consultant and photographer, who prepares food, styles the food and takes stunning images of the food he has created and styled. He uses Sony DSLR, Sony A100, Sony A550 and Sony A77 (mated to a Carl Zeiss 24-70 f2.8 lens) cameras to capture his work. Matsumoto licenses his photos for both commercial and noncommercial uses.

3. Defendant 'Butterfield Gourmet, LLC' ("BG") is a gourmet pie and dessert baking company. At all times relevant herein, BG owned and operated the internet website located at the URL <https://www.butterfieldgourmet.com/> (the "Website").

4. Matsumoto alleges that Defendant copied Matsumoto's copyrighted Work from the internet in order to advertise, market and promote its business activities. BG committed the violations alleged in connection with Defendant's business for purposes of advertising and promoting sales to the public in the course and scope of the BG's business.

### **JURISDICTION AND VENUE**

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Defendant is subject to personal jurisdiction in Texas.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, BG engaged in infringement in this district, BG resides in this district, and BG is subject to personal jurisdiction in this district.

### **DEFENDANT**

9. Butterfield Gourmet, LLC is a Texas Limited Liability Company, with its principal place of business at 9800 Preston Road, Dallas, Texas 75230, and can be served by serving its Registered Agent, Ruth A. Butterfield, at 12007 Whitman Lane, Dallas, Texas, 75230.

### **THE COPYRIGHTED WORK AT ISSUE**

10. In 2017, Matsumoto created the photograph entitled "key-lime-pie-\_8," which is shown below and referred to herein as the "Work".



11. Matsumoto registered the Work with the Register of Copyrights on April 03, 2017, and was assigned registration number VA 2-044-921. The Certificate of Registration is attached hereto as **Exhibit 1**.

12. Matsumoto's Work is protected by copyright but was not otherwise confidential, proprietary, or trade secrets.

13. At all relevant times Matsumoto was the owner of the copyrighted Work at issue in this case.

#### **INFRINGEMENT BY BG**

14. BG has never been licensed to use the Work at issue in this action for any purpose.

15. On a date after the Work at issue in this action was created, but prior to the filing of this action, BG copied the Work.

16. On or about November 28, 2021, Matsumoto discovered the unauthorized use of his Work on the Website. BG used the Work to illustrate a 'Peach + Berries Pie' recipe.

17. BG copied Matsumoto's copyrighted Work without Matsumoto's permission.

18. After BG copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its regular business activities.

19. BG copied and distributed Matsumoto's copyrighted Work in connection with Defendant's business for purposes of advertising and promoting Defendant's business, and in the course and scope of advertising and selling products and services.

20. Matsumoto's Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

21. BG committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

22. Matsumoto never gave Defendant permission or authority to copy, distribute or display the Work at issue in this case.

23. Matsumoto notified BG of the allegations set forth herein on January 11, 2023 and May 30, 2023. To date, the parties have failed to resolve this matter.

**COUNT I**  
**COPYRIGHT INFRINGEMENT**

24. Matsumoto incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. Matsumoto owns a valid copyright in the Work at issue in this case.

26. Matsumoto registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27. BG copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Matsumoto's authorization in violation of 17 U.S.C. § 501.

28. BG performed the acts alleged in the course and scope of its business activities.

29. Defendant's acts were willful.

30. Matsumoto has been damaged.

31. The harm caused to Matsumoto has been irreparable.

WHEREFORE, the Plaintiff SHOICHI MATSUMOTO prays for judgment against the Defendant BUTTERFIELD GOURMET, LLC that:

a. BG and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. BG be required to pay Matsumoto his actual damages and Defendant's profits attributable to the infringement, or, at Matsumoto's election, statutory damages, as provided in 17 U.S.C. § 504;

c. Matsumoto be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Matsumoto be awarded pre- and post-judgment interest; and

e. Matsumoto be awarded such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Matsumoto hereby demands a trial by jury of all issues so triable.

DATED: January 3, 2024

Respectfully submitted,

/s/ Craig Anthony Wirth  
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